

**Exhibit No. \_\_\_ T (RP-1T)**  
**Docket U-111465**  
**Witness: Rayne Pearson**

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**PUGET SOUND ENERGY, INC.,**

**Respondent.**

**DOCKET U-111465**

**TESTIMONY OF**

**Rayne Pearson**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

**June 22, 2012**

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### EXHIBITS

Exhibit No. (RP-2)	Staff Investigation Report, August, 2011
Exhibit No. (RP-3)	UTC Letter to Tom DeBoer, PSE, dated May 10, 2011
Exhibit No. (RP-4C)	PSE Response, Disconnection Visit Charge Data for April, 2011, dated June 3, 2011
Exhibit No. (RP-5)	UTC Letter to Tom DeBoer, PSE, dated June 7, 2011
Exhibit No. (RP-6C)	PSE Response, Disconnection Visit Charge Data covering March and May, 2011, dated June 17, 2011
Exhibit No. (RP-7)	PSE Response to Staff Data Request 7
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**I. INTRODUCTION AND SUMMARY OF TESTIMONY**

**Q. Please state your name and business address.**

A. My name is Rayne Pearson. My business address is 1300 S. Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504.

**Q. By whom are you employed and in what capacity?**

A. I am employed by the Washington Utilities and Transportation Commission as a Compliance Investigator.

**Q. How long have you been employed by the Commission?**

A. Two years and five months.

**Q. Would you please state your educational and professional background?**

A. I am a licensed attorney. I obtained my undergraduate degree in Journalism and Women’s Studies from New York University, and my J.D. from Seattle University School of Law in 2004. I have over five years of experience as an investigator and regulator in various capacities with the State of Washington.

**Q. Please describe your duties as they relate to this case.**

A. I was assigned to conduct an investigation into Puget Sound Energy, Inc.’s (“PSE” or “Company”) practice of assessing a \$13 disconnect visit fee for visits to customers’ homes for purposes other than the disconnection of service. I reviewed data

1 provided by the Company in response to Commission Staff's ("Staff") data requests  
2 regarding accounts that were charged a \$13 disconnect visit fee for non-disconnect  
3 visits in the months of March, April, and May, 2011. The Company provided a list  
4 of 1,639 customers who were erroneously charged \$13 disconnect visit fees during  
5 those three months. I prepared an Investigation Report in which I recommended that  
6 the Commission issue a formal complaint, assess a penalty of up to \$1,000 for each  
7 of the 1,639 violations I identified (for a total penalty of up to \$1,639,000), and order  
8 PSE to refund affected customers. Based on the results of my investigation, the  
9 Commission found probable cause to issue the Complaint on December 14, 2011. I  
10 also reviewed the Company's responses to formal Staff Data Requests made  
11 subsequent to the Commission's issuance of the Complaint and the prehearing  
12 conference in this case.

13  
14 **Q. What will your testimony cover?**

15 A. My testimony will discuss the violations I found in my investigation in this docket,  
16 discuss information received by Staff from subsequent data requests (including  
17 evidence of additional violations), and provide recommendations.

18  
19 **Q. Please summarize your recommendation.**

20 A. I recommend that the Commission find that PSE violated WACs 480-90-128(6)(k)  
21 and 480-100-128(6)(k), as well as its own tariff when it inappropriately charged  
22 1,639 disconnect visit fees in April and May, 2011, and order penalties of up to  
23 \$1,000 for each of the 1,639 violations in April and May, 2011 identified in my

1 investigation report. I also recommend that the Commission: 1) find that PSE  
2 inappropriately charged customers a \$13 disconnect visit fee a total of 6,295 times in  
3 2010 and 2011 (including the 1,639 occurrences identified in my investigation), in  
4 violation of WACs 480-90-128(6)(k) and 480-100-128(6)(k) and its own tariff; 2)  
5 order PSE to refund each of the 6,295 customers inappropriately charged the fee and  
6 any additional customers dating from December 14, 2009 (two years prior to  
7 issuance of the Complaint); and 3) order PSE to provide proof of all refunds made.  
8

## 9 II. TESTIMONY

10  
11 **Q. Please explain what prompted Commission Staff's investigation in Docket U-**  
12 **111465.**

13 A. The investigation in Docket U-111465 was prompted by an informal complaint filed  
14 by a consumer with the Commission on May 2, 2011. In that Consumer Complaint,  
15 No. 111311, PSE made a field visit to a customer's home on April 22, 2011, for the  
16 purpose of leaving a 24-hour disconnect notice or collecting payment from the  
17 customer. PSE billed the customer a \$13 disconnect visit fee for the visit, even  
18 though the purpose of the visit was not to disconnect service. Staff notified PSE that  
19 it was assessing a violation of WAC 480-100-128(k) for charging a disconnect visit  
20 fee when the purpose of the visit was not to disconnect service. A copy of this  
21 Consumer Complaint is contained in Exhibit No. \_\_\_\_ (RP-2), my Investigation  
22 Report, at Appendix B. Staff determined that it was necessary to conduct a broader

1 investigation to determine if this practice was widespread and/or ongoing. I was  
2 assigned to conduct that investigation.

3

4 **Q. Did you document the results of your investigation?**

5 A. Yes. I prepared an Investigation Report, which I completed in August, 2011. My  
6 Investigation Report is attached as Exhibit No. \_\_\_\_ (RP-2).

7

8 **Q. Please describe the outcome of the investigation in Docket U-111465.**

9 A. Based on my investigation, the Commission issued a Complaint in this matter on  
10 December 14, 2011.

11

12 **Q. Please describe the investigation in U-111465.**

13 A. On May 10, 2011, Staff issued a data request to PSE, which asked PSE to provide a  
14 list of all electric and natural gas customers who had been charged a \$13 disconnect  
15 visit fee for a visit made for any purpose other than the disconnection of service  
16 during April, 2011. See Exhibit No. \_\_\_\_ (RP-3). PSE responded on June 3, 2011,  
17 by providing a list of customers who were inappropriately charged a \$13 disconnect  
18 visit fee in April, 2011. I found that this list showed 1,273 customers were  
19 inappropriately charged the \$13 disconnect visit fee in April, 2011. See Exhibit No.  
20 \_\_\_\_ (RP-4C).

21 Based on this response, Staff issued another data request to PSE on June 7,  
22 2011, requesting a list of all electric and natural gas customers who had been charged  
23 a \$13 disconnect visit fee for a non-disconnect visit in March and May, 2011. See

1 Exhibit No. \_\_\_\_ (RP-5). PSE responded with data showing that 366 customers were  
2 inappropriately charged the \$13 fee in May, 2011. PSE's response indicated that  
3 there were no similar charges in March, 2011. See Exhibit No. \_\_\_\_ (RP-6C).

4  
5 **Q. Please explain the violations you found for April and May, 2011, based on the**  
6 **information that PSE provided during your investigation.**

7 A. I found that, in total for the months of April and May, 2011, PSE charged 1,639  
8 disconnect visit fees for visits PSE made to customers other than for the purpose of  
9 actual disconnection. I determined that PSE had violated WACs 480-90-128(6)(k)  
10 and 480-100-128(6)(k), as well as its own tariff each time it inappropriately charged  
11 a disconnect visit fee, for a total of 1,639 violations during this time period.

12  
13 **Q. Please explain the Commission rules that you found PSE violated in this**  
14 **proceeding.**

15 A. WAC 480-90-128 contains rules regarding disconnection of service for a gas utility,  
16 and WAC 480-100-128 contains similar rules regarding disconnection of service for  
17 an electric utility. WAC 480-90-128(6)(k) and WAC 480-100-128(6)(k) provide that  
18 a utility may charge a fee for a disconnection visit (when a utility representative is  
19 dispatched to disconnect service), as follows:

20 A utility representative *dispatched to disconnect service* must  
21 accept payment of a delinquent account at the service address, but  
22 will not be required to give change for cash paid in excess of the  
23 amount due and owing. The utility must credit any overpayment to  
24 the customer's account. *The utility may charge a fee for the*  
25 *disconnection visit to the service address if provided for in the*  
26 *utility's tariff.* (emphasis added)  
27

1 WAC 480-90-128(6)(k) and WAC 480-100-128(6)(k).  
2  
3  
4

5 **Q. Please explain the tariff violations that you found in this proceeding.**

6 A. A disconnection visit fee is provided for in the Company's Electric and Gas Tariffs.  
7 PSE's Electric Tariff G, Schedule 80, General Rules and Provisions, Item 30,  
8 Disconnect Visit Charge, provides, in pertinent part, as follows:

9 DISCONNECT VISIT CHARGE—When a visit by a Company  
10 representative to the Customer's service address for the purpose of  
11 disconnection does not result in disconnection of service, a service fee of  
12 \$13.00 will be charged for each visit when the visit does not result in a  
13 disconnection of service.[...]

14 PSE's Gas Tariff WN U-2 Rule 09, Section 10, Disconnect Visit Charge  
15

16 contains identical language. The \$13 disconnect visit fee applies only when a visit is  
17 made for the purpose of disconnection. PSE was also in violation of its electric or  
18 gas tariff each of the 1,639 times it charged a disconnect visit fee for visits that were  
19 *not* for the purpose of actual disconnection.  
20

21 **Q. In the course of this formal proceeding, has Staff received, and did you review,**  
22 **materials from the Company indicating that the violations you identified in**  
23 **April and May, 2011, were more widespread?**

24 A. Yes. Following the prehearing conference in this adjudicative proceeding, the  
25 parties engaged in discovery. In response to a formal data request that I reviewed,  
26 PSE has admitted that it charged 3,631 improper disconnect visit fees in 2011,  
27 including the 1,639 previously identified in my investigation. See Exhibit No. \_\_\_\_  
28 (RP-7). In response another formal data request that I reviewed, PSE has admitted



1 that it charged 2,664 improper disconnect visit fees in 2010. See Exhibit No. \_\_\_\_  
2 (RP-8). This is a total of 6,295 improper disconnect visit fees over a two year  
3 period, or nearly four times as many as I found in April and May, 2011. Although  
4 my investigation reviewed PSE's activities in a three-month period and found 1,639  
5 violations within that period, there appears to be a basis to find 6,295 total violations  
6 in 2010 and 2011.

7  
8 **Q. In your opinion, does PSE's explanation that it declared certain days to be**  
9 **"non-disconnect days" excuse its conduct?**

10 A. No, it does not. In its Answer responding to the Complaint, PSE, in paragraph 15,  
11 stated that the Company declared a number of "non-disconnect days" when  
12 Company employees visited customers for purposes other than disconnecting  
13 service. The Company explained that "PSE's procedures in place at the time,  
14 however, assessed a \$13 disconnection visit charge for such visits because PSE was  
15 within its rights to disconnect those customers but for PSE's decision not to  
16 disconnect on those days."

17 The \$13 disconnection visit fee is permissible under both WAC 480-90/100-  
18 128(6)(k) and PSE's tariff only when: 1) the Company visits a customer's home for  
19 the purpose of disconnecting service, and 2) a disconnect would have occurred *but*  
20 *for* some action taken by the customer (for example, paying the past due amount in  
21 full or making payment arrangements). The validity of the fee hinges on the  
22 Company's intention for making the visit, not whether or not the company was

1 “within its rights” to disconnect service. Only a customer’s actions can trigger the  
2 \$13 charge, and only if PSE’s purpose for the visit was to disconnect service.  
3

4 **Q. In your opinion, were PSE’s violations of WAC 480-90-128(6)(k) and WAC 480-  
5 100-128(6)(k) and its Tariff representative of a pattern or practice?**

6 A. Yes. While my investigation was prompted by one customer complaint in which a  
7 violation was identified, that was not an isolated violation. I found 1,639 violations  
8 during a two month period, establishing a pattern of repeated conduct. Considering  
9 also that, by PSE’s own admission, there were 3,631 total violations in 2011, and  
10 another 2,664 total violations in 2010, I believe that PSE had a long-standing  
11 practice of improperly charging a significant number of disconnect visit fees. PSE  
12 explained, in response to a formal Staff Data Request, that field representatives  
13 dispatched to collect payments or leave 24-hour notices on “non-disconnect days”  
14 were “trained to bill a \$13 disconnect fee.” See Exhibit No. \_\_\_ (RP-9). PSE  
15 admitted that this charge was not system generated, but was instead applied to  
16 customer accounts by PSE’s employees at PSE’s direction. In my opinion, the  
17 Company knew or should have known that charging the \$13 disconnection visit fee  
18 was improper on “non-disconnect days” because the visits were made for purposes  
19 other than disconnection. It appears that the Company justified assessing the charge  
20 because it believed, in its own words, that “PSE was within its rights to disconnect  
21 those customers.”  
22

1 **Q. How did PSE's erroneous charges and the resulting violations harm affected**  
2 **customers?**

3 A. Customers who are threatened with disconnection are often low-income, and a \$13  
4 charge is significant to someone who cannot afford to pay his or her bill in the first  
5 place. The inappropriate charges impacted the most vulnerable population of  
6 consumers, and resulted in PSE assessing \$81,835 in charges it was not entitled to  
7 collect for the 6,295 violations in 2010 and 2011.

8

9 **Q. Should PSE be required to provide refunds to all customers improperly charged**  
10 **a disconnect visit fee?**

11 A. Yes. Although PSE, in Paragraph 15 of its Answer, indicates that it has already  
12 refunded some of the charges, PSE should be required to refund not only the  
13 customers improperly charged for the months cited in my original investigation, but  
14 all customers within a two-year period prior to the Commission's issuance of the  
15 Complaint, and provide proof of all refunds. This would be all charges dating back  
16 to December 14, 2009. By PSE's own admission, this is at least 6,295 improper  
17 charges. There may be additional improper charges that PSE has not yet identified  
18 from December 14, 2009, to January 1, 2010, that are within this two-year period  
19 and should be refunded.

20

21 **Q. In summary, what do you recommend in this proceeding?**

22 A. I recommend that the Commission find that PSE violated WACs 480-90-128(6)(k)  
23 and 480-100-128(6)(k), as well as its own tariff when it inappropriately charged

1 1,639 disconnect visit fees in April and May, 2011, and order penalties of up to  
2 \$1,000 for each of the 1,639 violations in April and May, 2011. I also recommend  
3 that the Commission find that PSE erroneously charged customers a \$13 disconnect  
4 visit fee at total of 6,295 times in 2010 and 2011, in violation of WACs 480-90-  
5 128(6)(k) and 480-100-128(6)(k) and its own tariff. As I have explained above, I  
6 recommend that the Commission order PSE to refund each of the 6,295 customers  
7 inappropriately charged the disconnect visit fee, and any additional customers dating  
8 from December 14, 2009 (two years prior to issuance of the Complaint).

9

10 **Q. Does this conclude your testimony?**

11 **A. Yes.**